

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

OSCAR ONEAL,

Plaintiff,

v.

CAROLYN W. COLVIN,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CIVIL ACTION NO. 15-3330

ORDER

AND NOW, this 12th day of January, 2016, after considering the complaint (Doc. No. 3), the answer (Doc. No. 8), and the administrative record (Doc. No. 7); and after considering the report and recommendation filed by United States Magistrate Judge Timothy R. Rice (Doc. No. 12); and after reviewing the plaintiff's motion in support of request for review and supporting brief (Doc. No. 9) and the defendant's response to the request for review (Doc. No. 12); and no party having filed objections to the report and recommendation; accordingly, it is hereby **ORDERED** as follows:

1. The report and recommendation (Doc. No. 12) is **APPROVED** and **ADOPTED**;¹
2. The plaintiff's request for review is **GRANTED** insofar as he requests that the court vacate the decision of the Commissioner and remand for further proceedings;

¹ Since neither party has filed objections to Judge Rice's report and recommendation, the court need not review the report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Nonetheless, "the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report." *Id.* As such, the court will review the report for plain error. *See Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) ("In the absence of a timely objection, . . . this Court will review [the magistrate judge's] Report and Recommendation for clear error." (internal quotation marks omitted)). The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). The court has reviewed Judge Rice's report for plain error and has found none.

3. The final decision of the Commissioner is **VACATED** and this matter is **REMANDED** to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with the report and recommendation; and

4. The clerk of court is **DIRECTED** to mark this matter as **CLOSED**.

BY THE COURT:

A handwritten signature in black ink, appearing to read "E. G. Smith", written over a horizontal line.

EDWARD G. SMITH, J.